THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1621 of 2005

26-09-2005

Between:

The Government of Andhra Pradesh, rep. by its

Principal Secretary, Industries and Commerce (Tex) Department,

Hyderabad.

.....APPELLANT

AND

K.V.Mohan Rao & Another.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1621 OF 2005

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

Government Order in G.O.Rt.No.639, Industries and Commerce (Tex) Department, dated 06.10.2004 was challenged in a writ petition being writ petition No.8908 of 2004 on the ground that it was arbitrary, illegal, without jurisdiction and null and void. The learned single Judge allowed the writ petition. Hence the appeal.

The main ground on which the Government Order was challenged, was that it was null and void to the provisions of the Andhra Pradesh Relief Undertakings (Special Provisions) Act 19 of 1971 (hereinafter referred to as 'the Act'). The relevant portion of the Government Order read as under;

> *"Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2) of Section 3 of the Andhra Pradesh Relief Undertakings (Special Provisions) Act, 1971 (Andhra Pradesh Act No.19 of 1971), the Governor of Andhra Pradesh hereby declares that the said Industrial Undertaking namely Nandyala Cooperative Spinning Mills Limited, Nandyala, Kurnool District which has been specified in the 1st Schedule to the said Act, shall with effect on and from the 25th September, 2004 be deemed to be a relief undertaking for the purpose of the said Act."*

The case of the writ petitioner before the learned single Judge was that since the maximum period of five years under Section 3(2) of the Act had been taken benefit of, therefore, the G.O. was bad. The learned single Judge took note of all the orders passed earlier from 24.02.1996 and came to a conclusion that, in fact, the benefit of five years had already been taken. Section 3(2) of the Act reads as under;

> *"A notification under sub-section (1) shall have effect for such period not exceeding twelve months as may be specified in the notification; but it shall be renewable by like notifications from time to time for further periods not exceeding twelve months at a time, so however, that all the periods in the aggregate do not exceed five years."*

The learned Government Pleader, appearing for the appellant, submits that five years period should be in one go and there should not be any gaps in between. That interpretation of sub-section (2) of

Section 3 of the Act is farfetched, because, there cannot be any notification, which will have effect for more than twelve months at a time and all the periods in aggregate shall not exceed five years. As such, in our view, the learned single Judge was right in allowing the writ petition and there is no scope for our interference in the matter.

Writ appeal is accordingly dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

26th September 2005.

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(R.SUBHASH REDDY, J)

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